

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

JAMES E. GAYLES #245238	)	
	)	
v.	)	NO. 2:04-CV-202
	)	
WAYNE BRANDON, Warden	)	

**ORDER**

In accordance with the accompanying memorandum opinion, the respondent's motion to dismiss is **DENIED**; his motion for summary judgment is **GRANTED** (Doc. 5); and this *pro se* petition for a federal writ of habeas corpus, 28 U.S.C. § 2254, is **DISMISSED**. Should the petitioner file a notice of appeal, the Court finds, for reasons contained in the memorandum, that he has failed to make a substantial showing of the denial of a constitutional right because reasonable jurists would not debate the Court's assessment of the adjudicated claims debatable. *Slack v. McDaniel*, 529 U.S. 473 (2000). Therefore, the Court **DENIES** issuance of a certificate of appealability. Fed. R. App. P. 22(b).

ENTER:

s/Thomas Gray Hull  
THOMAS GRAY HULL  
SENIOR U. S. DISTRICT JUDGE